



SO ORDERED.

SIGNED this 11 day of May, 2006.

A handwritten signature in black ink, appearing to read "A. Thomas Small".

A. Thomas Small
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION

IN RE:

CASE NO.

HESTER ALICE DAVIS

04-03619-5-ATS

DEBTOR

HESTER ALICE DAVIS

ADVERSARY PROCEEDING NO.

Plaintiff

S-05-00076-5-AP

v.

MILLENNIUM DEVELOPMENT GROUP, LLC
and LEWIS A. THOMPSON, III, TRUSTEE

Defendants.

SECOND AMENDED JUDGMENT

The trial of this adversary proceeding brought by the chapter 13 debtor, Hester Alice Davis, against defendant Millennium Development Group, LLC for claims of breach of contract, breach of express and implied warranties, violations of the North Carolina Manufactured Home Warranties Act, unfair and deceptive trade practices, misrepresentation, negligence, and violation of the North Carolina Fair Debt Collection Practices Act, and against defendant Lewis A. Thompson, III for breach of his fiduciary duty as trustee under a deed of trust, was held in Raleigh, North

Carolina on February 9, 10, and 13, 2006. A Memorandum Opinion and Order Denying Motion for Relief from Stay, Order Denying Objection to Confirmation of Plan and Order Allowing Objection to Claim setting forth the court's findings of fact and conclusions of law was entered on March 31, 2006, and a further Memorandum Opinion regarding the plaintiff's attorney's fees was entered on April 12, 2006. Based on the findings of fact and conclusions of law set forth in the Memorandum Opinions, a judgment was entered on April 12, 2006. That judgment was amended on April 20, 2006, to correct an omission. The caption of the amended judgment is amended by this second amended judgment to reflect that Lewis A. Thompson, III, is a defendant in his capacity as Trustee. Accordingly, based on the court's findings of fact and conclusions of law,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the plaintiff, Hester Alice Davis, recover the sum of \$5,800, trebled pursuant to North Carolina General Statute § 75-16, for a total amount of \$17,400 from the defendant, Millennium Development Group, LLC, plus interest at the rate of 4.85% from April 12, 2006, until paid; and

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the plaintiff, Hester Alice Davis, recover the sum of \$2,000, pursuant to North Carolina General Statute § 75-56, from the defendant, Millennium Development Group, LLC, plus interest at the rate of 4.85% from the date of this amended judgment until paid; and

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the plaintiff, Hester Alice Davis, recover the sum of \$7,000 in attorney's fees from the defendant, Millennium Development Group,

LLC, plus interest at the rate of 4.85% from April 12, 2006, until paid; and

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, as provided in the court's order of March 31, 2006, the deed of trust in favor of Millennium Development Group, LLC, recorded with the Warren County Register of Deeds at Book 744 and Page 0513, is **VOID**; and

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that no later than May 30, 2006, the defendant, Millennium Development Group, LLC, may remove the modular home located on the property at 956 NC Highway 43, Macon, North Carolina, provided that it first pays to the plaintiff, Hester Alice Davis, the damages and attorney's fees awarded in this judgment, and agrees to indemnify Ms. Davis for any harm to the property that may result from the removal; and

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that if Millennium removes the mobile home, Ms. Davis shall have the option of having Millennium leave the concrete foundation or of having Millennium remove the concrete foundation and return the property to the condition it was in before the home was delivered in October 2003; and

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the plaintiff, Hester Alice Davis, recover the sum of \$12,500 (which includes the attorney's fees expended by Ms. Davis in connection with her lawsuit against Millennium Development Group, LLC) from the defendant, Lewis A. Thompson, III, plus interest at the rate of 4.85% from April 12, 2006, until paid; and

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the liability of defendants, Millennium Development Group, LLC and Lewis A. Thompson, III, is joint and several.

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